

**MONTANA WETLANDS LEGACY PROJECTS
CONTRACT NUMBER: SPB04-878P-C**

1. PARTIES

THIS CONTRACT, is entered into by and between the State of Montana Department of Administration, State Procurement Bureau (hereinafter referred to as "the State"), whose address and phone number are Room 165 Mitchell Building, 125 North Roberts St., PO Box 200135, Helena MT 59620-0135, (406) 444-2575 and **Ducks Unlimited, Inc.**, (hereinafter referred to as the "Contractor"), whose nine digit Federal ID Number, address and phone number are 13-5643799, 2525 River Road, Bismarck ND 58503, and (701) 355-3500.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

2.1 Contract Term. This contract shall take effect upon full execution of all signatory parties, and terminate on June 30, 2008, unless terminated earlier in accordance with the terms of this contract. (Mont. Code Ann. § 18-4-313.)

2.2 Contract Renewal. This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed in one-year intervals, or any interval that is advantageous to the State, for a period not to exceed a total of three additional years. This renewal is dependent upon legislative appropriations.

3. NON-EXCLUSIVE CONTRACT

The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is for the convenience of state agencies and is considered by the State Procurement Bureau to be a "Non-exclusive" use contract. Therefore, agencies may obtain this product/service from sources other than the contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. The State Procurement Bureau does not guarantee any usage.

4. COOPERATIVE PURCHASING

Under Montana law, public procurement units, as defined in section 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the bidder/offeror objects, in writing, to the State Procurement Bureau prior to the award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units.

5. SERVICES AND/OR SUPPLIES

Contractor agrees to provide the State with an expedited means of hiring qualified contractors to provide Wetland, Stream, and other Aquatic Resource restoration, enhancement, and development design and implementation for various projects around the State of Montana. This contract will be utilized primarily by FWP but other state agencies or public procurement units may utilize this contract in conjunction with wetland, stream, and other aquatic resource restoration, enhancement and development projects.

The Contractor may need to have access to engineering services depending on the nature of the project. The Contractor will be expected to use their own best judgment as to whether engineering services are needed for a given project. However, traditional engineering methodologies are not the emphasis of this contract. It is a violation of State Statute to practice engineering or land surveying without a license.

5.1 Design Expectations. FWP prefers stream restoration improvement techniques that simulate natural conditions and facilitate natural stream processes. The State is always open to new and innovative approaches that accomplish project goals providing these techniques have proven success.

5.2 Contractor Responsibilities. The selected contractor for an individual project is responsible for the supervision and implementation of the designs and is responsible for oversight of work performed by all subcontractors. In most cases the contractor will provide and be responsible for all the necessary equipment, materials, supplies and personnel necessary for proper execution of the work. However, the State reserves the right to hire subcontractors (equipment and/or labor) if it will provide a cost savings to the State. The selected contractor is also responsible for clean up of the sites and must have the sites inspected by the State immediately prior to completion.

5.3 Permits. The Contractor is responsible for obtaining all necessary permits for each project, including but not limited to 404 permits, 310 (streambank preservation) permits, other permits, SHPO clearance, and water rights.

5.4 On-Site Requirements/Cleanup. When a contractor is contacted by the State to discuss a project, the State and the contractor will visit the job site to become familiar with conditions relating to the project and labor requirements. The State and chosen contractor will then cooperatively develop project feasibility, conceptual design and cost.

The Contractor shall adequately protect the work, adjacent property, and the public in all phases of the work. The Contractor shall be responsible for all damages or injury due to their action or neglect.

The Contractor shall maintain access to all phases of the project pending inspection by the State or its representative.

All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance.

The Contractor shall respond within seven calendar days after notice of observed defects has been given and shall proceed to immediately remedy these defects. Should the Contractor fail to respond to the notice or not remedy the defects, the State may have the work corrected at the expense of the Contractor.

In terms of cleanup, the Contractor shall:

- (a) Keep the premises free from debris and accumulation of waste;
- (b) Clean up any oil or fuel spills;
- (c) Keep machinery clean and free of weeds;
- (d) Remove all construction smears and stains from finished surfaces;
- (e) Perform finishing site preparation to: (1) limit the spread of noxious weeds, and (2) smooth exposed ground surface to enhance aesthetics, provide silt-footing, and provide uniform bed for future revegetation work before final payment by the State;
- (f) Remove all construction equipment, tools and excess materials before final payment by the State; and
- (g) Install silt fences as necessary, prevent fall-back of excavated materials, and prevent any other potential violations of federal or state water protection laws during the period of construction.

5.5 Work Acceptance. The Contractor is responsible for project oversight as needed. The State may also periodically provide personnel for administrative oversight from the initiation of the contract through project completion. All work will be inspected by the State or designated liaison prior to approval of any contract payments. All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance. Contractor shall respond within seven calendar days after notice of defects has been given by the State and proceed to immediately remedy all defects.

5.6 Records. The Contractor will supply the State with photo documentation of methods of habitat restoration progress throughout project implementation. Contractor will maintain records for themselves and all subcontractors of supplies, materials, equipment and labor hours expended.

5.7 Communication. During a project the chosen contractor is required to make weekly contact with the State liaison, or other parties designated by the State for communications, to make arrangements for field inspections and project compliance. This communication must be made in person or by telephone conversation with designated liaisons. Voice mail recordings will not be considered communication unless approved by the State's project contact.

Remoteness of project sites may necessitate that the Contractor have some form of field communication such as a cellular phone. This communication is necessary to enable the State to respond to public concerns related to the project, accidents, inspections, or other project issues that require immediate feedback. Weekly communication will commence when the chosen contractor initiates project implementation.

5.8 Project Monitoring and Reports to the Corps of Engineers. The Contractor is responsible for monitoring their projects and reporting to the Corps of Engineers about the development of wetland and stream function resulting from the project. In this way, the Corps will know whether wetland credit for the project has been earned.

5.9 Change of Staffing. Since qualifications of personnel were key in determining which offeror's were selected to be on this term contract, a written notification to the State Agency requesting services of any contractor changes of key personnel must be made prior to entering into negotiations to perform any specific work scope. Contractor shall replace such employee(s) at its own expense with an employee of substantially equal abilities and qualifications without additional cost to the Agency. If these staffing changes cause the contractor to no longer meet the qualifications stated herein, that firm will be removed from the service area of this term contract. Failure to notify the State Agency of staffing changes could result in the contractor being removed from the term contract listing and possible suspension from bidding on other State projects.

5.10 Collaboration on Potential Projects. The State encourages collaboration between Contractors to increase the scope and effectiveness of services offered. All subcontractors to be used in any project must be approved by FWP or the authorized entity initiating the project.

6. PROJECT SELECTION

The State will be responsible for identifying projects, contacting landowners and securing necessary permission/cooperation agreements, selecting a contractor, writing grant applications and approving project payments.

The State will not initiate projects where it is known that hazardous materials are present. If there is an indication of a potential of hazardous materials, then the State will do testing prior to contacting the Contractor. However, there is always the possibility of unforeseen problems resulting in the stoppage of a project.

The selected contractor will be required to meet with State personnel at the project site to conduct a site evaluation, discuss project issues and begin the negotiation process on project feasibility, conceptual design and costs for each project.

7. CONTRACTOR SELECTION

The State may select a term contract holder from the Environmental Services Contract-Home page under MT Wetlands Legacy Projects as provided under the state's website address <http://www.discoveringmontana.com/doa/gsd/procurement/TermContracts/environservices/Default.asp> , taking into consideration such things as the contractor's expertise, requirements and location of the project, the contractor's availability and access to resources necessary to efficiently and effectively complete the project, demonstrated excellent past performance on State and public projects, identified subcontractors and total project cost.

7.1 General. Ordering agencies shall use the procedures in this section when ordering services priced at hourly rates as established by each Term Contract (TC).

7.2 Request for Quotation (RFQ) procedures. The ordering agency must provide an RFQ, which includes the statement of work and limited but specific evaluation criteria (e.g., experience and past performance), to all TC contractors. The RFQ may be posted to the agency's state website to expedite responses.

7.3 Statement of Work (SOW's). All SOW's shall include at a minimum a detailed description of the work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (e.g., security clearances, travel, special knowledge).

- (1) Ordering agency may select a contractor from the appropriate list and directly negotiate a mutually acceptable project based on a sudden and unexpected happening or unforeseen occurrence or condition, which requires immediate action (Exigency).
- (2) Ordering agency may place orders at, or below the \$5,000 threshold with any term contract contractor that can meet the agency's needs. The ordering agency should attempt to distribute orders among all contractors.
- (3) For orders estimated to exceed \$5,000 but less than \$25,000.
 - (i) The ordering agency shall develop a statement of work.
 - (ii) The ordering agency shall provide the RFQ (including the statement of work and evaluation criteria) to at least three TC contractors.
 - (iii) The ordering agency shall request that contractors submit firm-fixed prices to perform the services identified in the statement of work.
- (4) For orders estimated to exceed \$25,000. In addition to meeting the requirements of 3 above, the ordering agency shall:
 - (i) Provide the RFQ (including the statement of work and the evaluation criteria) to all TC contractors .

7.4 Evaluation. The ordering agency shall evaluate all responses received using the evaluation criteria provided in the RFQ to each TC contractor. The ordering agency is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. The agency will place the order with the contractor that represents the best value. After award, ordering agencies will provide timely notification to unsuccessful TC contractors. If an unsuccessful TC contractor requests information on a task order award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.

- 7.5 Minimum documentation.** The ordering agency shall document:
- (1) The TC contractors considered, noting the contractor from which the service was purchased;
 - (2) A description of the service purchased;
 - (3) The amount paid;
 - (4) The evaluation methodology used in selecting the contractor to receive the order;
 - (5) The rationale for making the selection;
 - (6) Determination of price fair and reasonableness.

Agency project task orders will be utilized to finalize the project. Only written addenda will be used for adjustments of the task orders and must be signed by both parties. All task orders must contain signatures from both parties and appropriate agency legal review as directed in their procurement policy.

The State will monitor contractor selection by using the information provided in the annual term contract usage reports.

Contractor's who fail to respond to three (3) RFQ opportunities within a one-year period between July 1st and June 30th, may be removed from the qualified list of contractors.

8. CONSIDERATION/PAYMENT

8.1 Payment Schedule. In consideration for the Montana Wetlands Legacy projects to be provided, the State shall pay according to the prices listed in Attachment B. Project budgets will be negotiated for each individual project. However, all rates, terms and conditions set forth in this term contract will be applied to individual contracts.

8.2 Invoicing Methods. The State reserves the right to choose the invoicing method from the following: (1) Prime contractor's billing will include the subcontractors charges and payment will be made to the prime; or (2) Prime and subcontractors will bill the State separately and the State will pay each directly.

8.3 Withholding of Payment. The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

9. COST/PRICE ADJUSTMENTS

9.1 Price Increases Negotiated Based on Increases in Contractor's Costs. Price increases may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any price increases must be based on demonstrated industry-wide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value. Contractor must provide written, verifiable justification for any cost adjustments they request during each renewal period. Contractor shall provide its cost adjustments in both written and electronic format.

10. TERM CONTRACT REPORTING

Term contract holder(s) shall furnish annual reports of term contract usage. Each report shall contain the project description, total dollars expended, and the name of the agency purchasing the services. The first report for this term contract will be due July 16, 2005.

Reported volumes and dollar totals may be checked by the State Procurement Bureau against State records for verification. Failure to provide timely or accurate reports is justification for cancellation of the contract and/or justification for removal from consideration for award of contracts by the State.

11. CONTRACTOR REGISTRATION

The Contractor is required to be registered with the Department of Labor and Industry under sections 39-9-201 and 39-9-204, MCA, *prior* to contract execution. The State cannot execute a contract for construction to a Contractor who is not registered and may award the contract to the next responsive vendor if registration is not completed in a timely manner. (Mont. Code Ann. § 39-9-401.)

Contractor Registration Number: 145212

12. CONTRACTOR WITHHOLDING

Section 15-50-206, MCA, requires the state agency or department for whom a public works construction contract over \$5,000 is being performed, to withhold 1 percent of all payments and to transmit such monies to the Department of Revenue.

13. MONTANA PREVAILING WAGE REQUIREMENTS

Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Unless superseded by federal law, at least 50% of the workers of each contractor engaged in construction services must be performed by bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

In addition, unless superseded by federal law, all employees working on a public works contract shall be paid prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA. Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis.

Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

The nature of the work performed or services provided under this contract meets the statutory definition of a "public works contract" under section 18-2-401(11)(a), MCA, and falls under the category of Heavy Construction and Nonconstruction services. The booklets containing Montana's 2003 Rates for Heavy Construction and Nonconstruction Services are attached.

The most current Montana prevailing Wage Booklet will automatically be incorporated at time of renewal. It is the contractor's responsibility to ensure they are using the most current prevailing wages during performance of its covered work.

14. ACCESS AND RETENTION OF RECORDS

14.1 Access to Records. The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

14.2 Retention Period. The Contractor agrees to create and retain records supporting the Montana Wetlands Legacy projects for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

15. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State. (Mont. Code Ann. § 18-4-141.) The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

16. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

17. REQUIRED INSURANCE

17.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

17.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

17.3 Specific Requirements for Commercial General Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

17.4 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

17.5 Specific Requirements for Automobile Liability. The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

17.6 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

17.7 Specific Requirements for Professional Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

17.8 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees,

and volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

17.9 Certificate of Insurance/Endorsements. A certificate of insurance from insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

18. COMPLIANCE WITH THE WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, upon expiration.

19. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

20. INTELLECTUAL PROPERTY

All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to the State for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

21. PATENT AND COPYRIGHT PROTECTION

21.1 Third Party Claim. In the event of any claim by any third party against the State that the products furnished under this contract infringe upon or violate any patent or copyright, the State shall promptly notify Contractor. Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at Contractor's expense. Contractor will indemnify the State against all costs, damages and attorney's fees that accrue as a result of such claim. If the State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

21.2 Product Subject of Claim. If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the State shall be prevented by injunction, the State will determine if the Contract has been breached.

22. CONTRACT TERMINATION

22.1 Termination for Cause with Notice to Cure Requirement. The State may terminate this contract for failure of the Contractor to perform any of the services, duties, or conditions contained in this contract after giving the Contractor written notice of the stated failure. The written notice must demand

performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

22.2 Reduction of Funding. The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See Mont. Code Ann. § 18-4-313(3).)

23. STATE PERSONNEL

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

23.1 State Contract Manager. The State Contract Manager identified below will be the single point of contact for the coordination of all contract issues under this contract. The State Contract Manager will meet with the Contractor Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The State Contract Manager for this contract is:

Robert Oliver, Contracts Officer
State Procurement Bureau
Room 165, Mitchell Building
125 North Roberts
PO Box 200135
Helena MT 59620-0135
Telephone #: (406) 444-0110
Fax #: (406) 444-2529
E-mail: ROliver@mt.gov

23.2 State Project Manager. The State Project Manager identified below will manage the day-to-day project activities on behalf of the State.

The State Project Manager for this contract is:

Tom Hinz, Coordinator
Montana Wetlands Legacy
1400 South Nineteenth
Bozeman MT 59718
Telephone #: (406) 994-7889
Fax #: (406) 994-4090
E-mail: thinz@montana.edu

24. CONTRACTOR PERSONNEL

24.1 Identification/Substitution of Personnel. The personnel identified or described in the Contractor's proposal shall perform the services provided for the State under this contract. Contractor agrees that any personnel substituted during the term of the contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. The State reserves the right to approve Contractor personnel assigned to work under the contract, and any changes or substitutions to such personnel. The State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve the Contractor to perform and be responsible for its obligations under this Contract. The State reserves the right to require Contractor personnel replacement. In the event that Contractor personnel become unavailable, it will be the Contractor's responsibility to provide an equally qualified replacement in time to avoid delays to the work plan.

24.2 Contractor Contract Manager. The Contractor Contract Manager identified below will be the single point of contact to the State Contract Manager and will assume responsibility for the coordination of all contract issues under this contract. The Contractor Contract Manager will meet with the State Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The Contractor Contract Manager for this contract is:

Pamela Schell
2525 River Road
Bismarck ND 58503
Telephone #: (701) 355-3500
Fax #: (701) 355-3512
E-mail: pschell@ducks.org

24.3 Contractor Project Manager. The Contractor Project Manager identified below will manage the day-to-day project activities on behalf of the Contractor:

The Contractor Project Manager for this contract is:

Roger Smith
2525 River Road
Bismarck ND 58503
Telephone #: (701) 355-3500
Fax #: (701) 355-3557
E-mail: rsmith@ducks.org

25. MEETINGS

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

26. CONTRACTOR PERFORMANCE ASSESSMENTS

The State may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

27. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall

pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

28. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

29. SCOPE, AMENDMENT AND INTERPRETATION

29.1 Contract. This contract consists of 11 numbered pages, any Attachments as required, RFP #SPB04-878P, as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

29.2 Entire Agreement. These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

30. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

**DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT BUREAU
PO BOX 200135
HELENA MT 59620-0135**

**DUCKS UNLIMITED, INC.
2525 RIVER ROAD
BISMARCK ND 58503
FEDERAL ID # 13-5643799**

BY: Penny Moon, Contracts Officer
(Name/Title)

BY: _____
(Name/Title)

BY: _____
(Signature)

BY: _____
(Signature)

DATE: _____

DATE: _____

ATTACHMENT A

CONTRACTOR'S RFP RESPONSE

SECTION 4: OFFEROR QUALIFICATIONS

4.0 STATE'S RIGHT TO INVESTIGATE AND REJECT

The State may make such investigations as deemed necessary to determine the ability of the offeror to provide the supplies and/or perform the services specified. The State reserves the right to reject any proposal if the evidence submitted by, or investigation of, the offeror fails to satisfy the State that the offeror is properly qualified to carry out the obligations of the contract. *This includes the State's ability to reject the proposal based on negative references.*

4.1 OFFEROR INFORMATIONAL REQUIREMENTS

In determining the capabilities of an offeror to perform the services specified herein, the following informational requirements must be met by the offeror. The response "(Offeror's Name)" understands and will comply may not be appropriate for this section. **(Note: Each item must be thoroughly addressed. Offerors taking exception to any requirements listed in this section may be found non-responsive or be subject to point deductions.)**

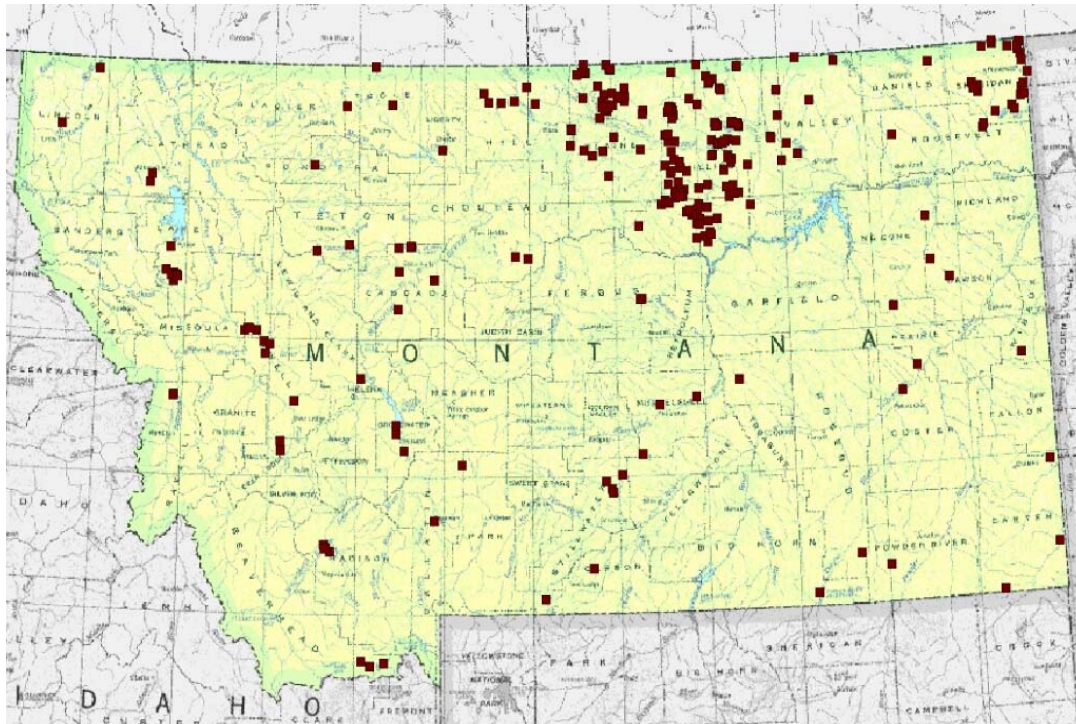
4.1.1 References. Offeror must provide a minimum of three government and three landowner references that are using or have used services of the type proposed in this RFP. The references should fall within the categories identified below. At a minimum, the offeror must provide the company name, the location where the services were provided, contact person(s), customer's email address and telephone number, a complete description of the service type, and dates the services were provided. The State reserves the right to use any information or additional references deemed necessary to establish the ability of the offerors to perform the conditions of the contract. Negative references may be grounds for proposal disqualification.

- These references should be located in Montana and include state and federal government, universities, other public agencies or governmental bodies, and private landowners where the offeror, preferably within the last three years, has successfully completed stream, wetland and other aquatic resource restoration, enhancement, and development projects. Offeror should emphasize stream and wetland restoration projects as the preferred area of experience for the purposes of this RFP.
- For each reference, offerors must identify which members of the proposed project team participated in the project, and what their roles and responsibilities were.
- Offerors must provide a listing of public agency contract work performed in the last three years or the last five public projects. Public agency being defined as any governmental body such as city, county, state, tribal or federal agencies.

Ducks Unlimited, Inc. has a strong track record of working with thousands of farmers, ranchers, landowners as well as public agencies to complete all components of wetland restoration projects. Ducke Unlimited's professional conservation team has the knowledge and experience that is critical to advance a project from start to finish.

Ducks Unlimited's conservation track record in Montana started in 1984 and since then has helped conserve more than 39,000 acres of wetlands and associated uplands (Exhibit E). DU has also provided technical assistance on over 14,000 acres of habitat in Montana. Much work has also occurred on private lands west of the Missouri River in South Dakota and North Dakota. Our work on both private and public lands has involved a number of agencies including: State Game and Parks Departments, U.S. Fish and Wildlife Service, U.S. Forest Service, U.S. Bureau of Reclamation, State Departments of Natural Resources, Natural

Resources Conservation Service, U.S. Army Corps of Engineers, The Bureau of Land Management and several Natural Resource Districts. This established network will be critical to the successful completion of projects identified in this RFP.



Completed projects in Montana.

The following list represents only a fraction of projects where DU provided technical assistance or contracted for wetland restoration projects in Montana:

Little Muddy Project
South of Ulm, Cascade
County, MT
216 acre wetland creation

Robert and Colleen Durocher
400 Gordon Road
Vaughn, MT 59487
406-467-3329
bandcdurocher@yahoo.com

Pipe Organ Wetland
South of Dillon,
Beaverhead County, MT
26 acre wetland restoration

Jim Roscoe
Dillon BLM Office
1005 Selway Dr.
Dillon, MT 59725
406-683-2337
jroscoe@mt.blm.gov

Montana Hi-Line and Beaver Creek
PPJV projects on involving
over 150 landowners and over 3,000 acres
of wetland habitat restored.
Blaine and Phillips Counties, MT

Jim Stutzman, USFWS
Private Lands Coord.
Benton Lake NWR
922 Bootlegger Trail
Great Falls, MT 59404
406-727-7400
jim_stutzman@fws.gov

Rick Northrup, MTFWP
P.O. Box 1122
Malta, MT 59538

Rock Creek LLP
Hinsdale, Valley County
Boundary and Wetland
Survey

406-654-1341
north@ttc-cmc.net
Mike Kinney
11627 Airport Road
Suite A
Everett, WA 98204
509-891-2093

Marc Pierce ponds
Manhattan, Gallitin
County, MT
Technical Assistance

Marc Pierce
308 East Main Street
Manhattan, MT 59741
406-284-3193
marc@bigskycarvers.com

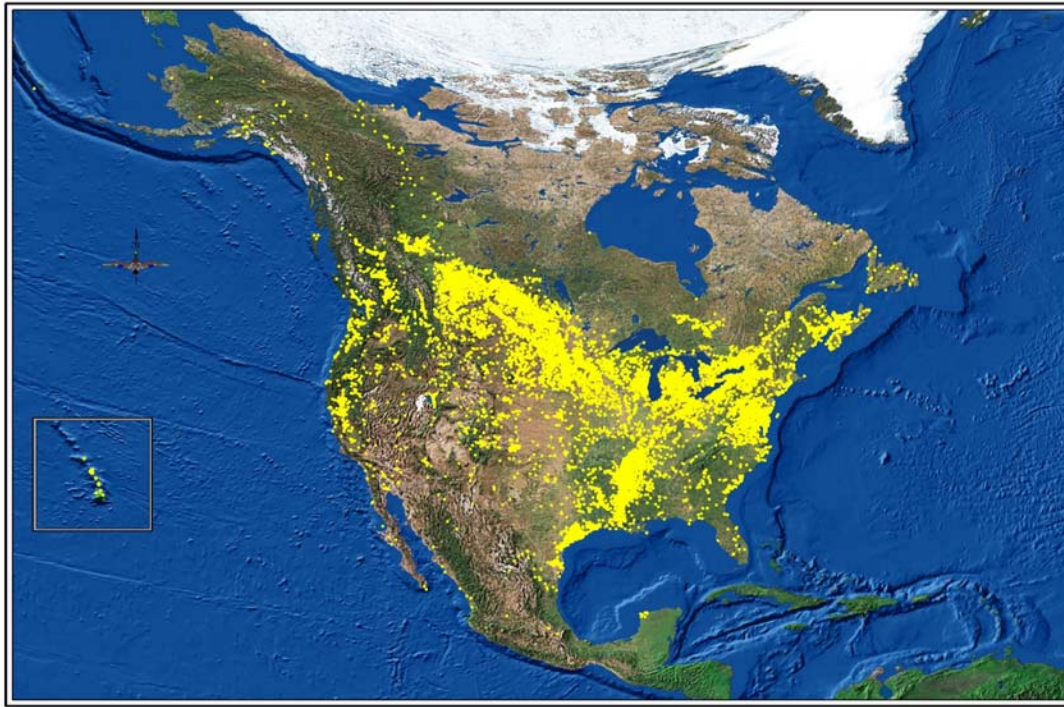
The DU personnel involved in these projects are the same as those outlined below in the staff qualification requirements of this RFP. Their roles are outlined in that section as well.

4.1.2 Company Qualifications. Provide a narrative summary of the capabilities of your firm and the team that will be assigned to contracts resulting from this RFP and identification of how many years your company has been in business providing services of the type listed in this RFP. General professional experience of the offeror should be summarized by identifying the number and expertise of professionals in the company, and related services that the company can offer. Minimum three years of experience in designing and supervising construction of stream, wetland, and other aquatic resource restoration, enhancement, and development projects. Minimum three years of experience in use and application of an appropriate system of stream classification that would apply to stream restoration is required. Must demonstrate a working understanding of state-of-the-art wetland, stream, and other aquatic resource area restoration practices.

Describe the office that would manage this contract (include location, number of employees, etc.). If awarded this contract, describe how you would communicate with the State. In doing so, describe the strategic relationship between your company and FWP.

Ducks Unlimited, Inc. (DU) is a 67 year-old private, non-profit 501(c)(3) conservation organization dedicated to restoring, enhancing, protecting, and managing wetlands and associated habitats to help fulfill the annual life cycle needs of North American waterfowl. Waterfowl have a very dynamic life-cycle, which requires DU to initiate a continental approach to conserving habitat in key breeding, wintering and migration areas. This direct link to habitat, wetlands in particular, demonstrates the common objectives between the Montana Wetlands Legacy and DU. Furthermore, DU shares similar strategies with the Legacy in demonstrating a non-confrontational approach to habitat conservation, with an emphasis on working with private landowners. Ducks Unlimited is registered as a Technical Service Provider with the USDA.

Since our inception in 1937, over 18,000 conservation projects have been completed totaling over 11 million acres conserved throughout North America. To efficiently and effectively deliver on-the-ground conservation, DU has established four regional offices located throughout the United States as well as several provincial offices in Canada. Montana (MT) is located administratively in the DU Great Plains Region. This office is located in Bismarck, North Dakota and was opened in 1984. There are seven other states within the region including North Dakota, South Dakota, Minnesota, Iowa, Nebraska, Colorado and Wyoming.



Map of Completed projects in North America.

Wetland restoration projects have been at the core of the DU mission since 1937. The DU engineering, biological, and support teams have fine-tuned the science of wetland restorations, which is why DU is widely recognized as the “Leader in Wetlands Conservation.” DU recently received a prestigious award from the Environmental Systems Research Group for our habitat planning work. DU’s work was chosen from among 100,000 nominations from around the world.

DU’s professional engineering staff has the capability and successful track-record to deliver all types of wetland projects, from simple restorations involving ditch plugs to projects requiring complex hydrological analysis and multiple water control structures. This capability includes, but is not limited to, topographic surveys, design surveys, construction layout surveys, construction quality assurance surveys, hydrologic and hydraulic design, construction specifications, construction plans, cost estimating, quantity calculations, and checkout and certification. DU also has the capability and experience in hiring contractors via a competitive bidding process. We have a database containing 170 contractors interested in working with us to complete wetland restoration projects in Montana. Recently, we have added the technology of the World Wide Web to help recruit new contractors as well as advertise projects to potential contractors. On an annual basis, small business organizations including women-owned and minority-owned businesses are contacted as potential new contractors.

Our contract compliance staff and legal department have a great deal of experience working with Federal and state funding to complete wetland restoration projects. This firsthand knowledge working with State Requirements and Federal Circulars, principles and regulations will ensure all applicable rules will be adhered to.

The Great Plains Regional Office (GPRO) supplies the eight state region with 65 full-time conservation team members (Exhibit B), including: Regional Biologists, Regional Engineers, Professional Land Surveyors, Construction Managers, Engineering Technicians, Land Protection Specialists, Biological Technicians, GIS Analysts, Programmers, and Technicians, Project Coordinators, Contract Compliance Specialists, and administrative support staff. This professional team completed 360 projects and had 290 other projects in various stages of development in fiscal year 2003 that included a \$13.5 million dollar budget. During fiscal year 2004’, ending on June 30, 2004, the GPRO engineering staff will have completed approximately 75 projects requiring some level of engineering. Currently, the fiscal year 2005’ budget has

approximately 60 projects that will require some level of engineering.

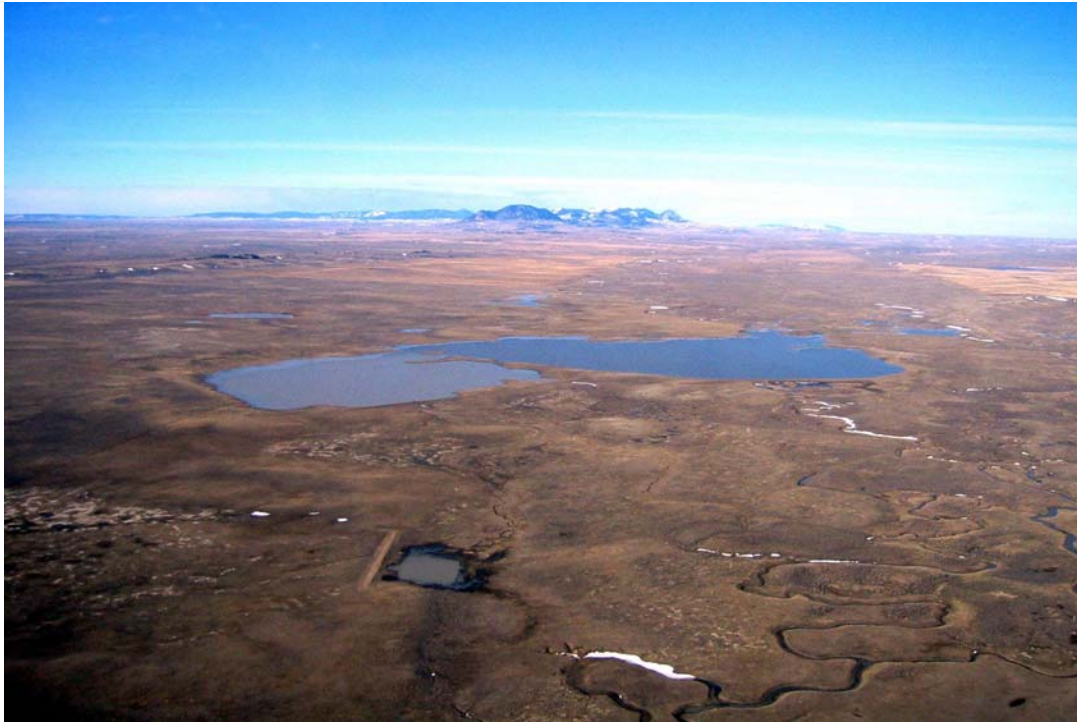
Ducks Unlimited, Inc. has completed over 100 wetland projects in cooperation with Montana Fish, Wildlife and Parks. DU has been the habitat delivery agent and a partner in all of these projects. Randy Renner attends most of the Montana Wetlands Legacy meetings and was part of the group that developed its mission statement and goals. Wherever there are wetland and waterfowl issues in Montana, DU has played a role. DU communicates on regular basis with staff from the Montana Fish, Wildlife and Parks and will continue to do so if DU is awarded the contract or not.

4.1.3 Subcontractor Experience. Provide a list of all equipment operator, stream and wetland restoration and revegetation specialist subcontractors you intend to use and the services they will provide. Describe their background and experience as related to the services provided and projects of the type listed in this RFP.

DU provides all the technical expertise to make sure each project meets the ecological standards for wetland restoration and the subcontractors provide the equipment and labor to accomplish the project objectives. DU maintains a large list of subcontractors to do our wetland projects. Each of these subcontractors must submit references and be approved by our engineering and contracting staff. The three listed subcontractors have done numerous contracts for DU in the past. They must all follow the specifications and designs for the wetland restorations that is provided to them from DU. Our quality control is insured by the on site management of each project by our construction managers. If the subcontractors work does not meet our specifications they are not paid in full until the project meets those specifications. Our list of subcontractors is extensive and each of them is required to be bondable, carry liability insurance and Workmen's Compensation Insurance. DU will ask for approval from the State of Montana Contracting Officer for the use of any other subcontractors not listed in the RFP prior to contracting for any work under this RFP.

4.1.4 Previous Projects. Identify previously completed (or substantially completed) wetland, stream, and other aquatic resource restoration, enhancement, and development projects in which your company was the prime contractor (for work conducted within the last five years). Include before and after photographs of representative projects.

DU has completed over 400 project deliveries in the state of Montana since 1984. The following pictures are just a small sampling of the work DU has done. It is hard to have good before and after photos from some of our recently completed projects since the drought has been so drastic in Montana that many of the projects completed in the last few years are dry. The focus should be on what a project looks like years after the restoration or enhancements have been completed. We have submitted only after photos since that is what shows the end product.



Bill Owen Project 220-acre wetland project completed in 2001.



Parrot Flats wetland restoration completed in 2000.



McNeil Slough WPA project completed in 2001.



Clarks Fork WPA project completed in 1994.

4.1.5 Staff Qualifications. Offerors must identify personnel that may work on this contract. Professional rates for each of these staff members must be provided as described in Section 5.

Primary contractor should have staff with the equivalent of a Bachelor of Science degree (BS) in wetland ecology, or related fields. Other combinations of education and experience will be evaluated and considered during the selection process.

Specialized training in applied river fluvial geomorphology, hydrology, and wetland and stream restoration is required.

Offerors must submit a summary document for each member of the team identifying: their experience and qualifications to perform these types of projects; their proposed roles and responsibilities; and their experience using techniques and methods for wetland, stream, and other aquatic resource restoration, enhancement, and development. Provide detail regarding their academic degrees, years of professional experience, years of experience on projects similar to those described in this RFP, outline specialty training, and identify professional registrations (if any).

The firms selected for this contract may need to have access to engineering services, describe how these services will be accessed and provided by your company.

DU appoints Roger Smith as the Project Manager for this project. Roger will also serve as DU's key contact with regards to the engineering components of this project. Roger is a licensed Professional Engineer in Montana, North Dakota, South Dakota, and Nebraska. Roger is a full-time employee for DU and has been employed with the company for 19 years. Roger has experience in all engineering aspects associated with wetland habitat development projects. He has been the Regional Engineer for Montana since 1989. He has extensive experience in wetland habitat development including the construction of dams, dikes and other earthwork activity, water control structures, water conveyance systems, pump systems, and drainage facilities. His responsibilities will include coordinating survey and performing hydrologic and hydraulic investigations and structural analysis. He will develop cost estimates, final design plans, specifications and ensure compliance with applicable state and federal regulations. He will develop bid quantities, bidding documents, and will analyze and award construction contracts. Roger is certified as a Technical Service Provider. As Project Manager, Roger is strongly committed to successfully implementing this project in cooperation with the Montana Wetlands Legacy.

Roger will work closely with Brad Karel, Manager Conservation Services – Construction Management, who will supervise all construction management staff assigned to Legacy projects. Brad is a 19-year veteran coordinating all aspects of wetland restoration construction management activities. He also has extensive experience in construction contract administration. Brad supervises a staff of 4 construction managers that include a professional land surveyor, geologist, and 2 individuals holding a Bachelor of Science degree in Construction Management.

DU plans to use Jack Millar, a contract employee for projects in North Central Montana. Jack has been a contract employee exclusively for Duck Unlimited since his retirement from the Bureau of Land Management in 1995. Jack is an Engineering Technician with a lifetime of experience in designing and providing construction management one-water resource facilities including dikes, dams, ponds, and water control structures. Jack has been instrumental in DU's ability to deliver the North American Wetland Conservation Act projects in the Beaver Creek Prairie Pothole Joint Venture Focus Area. Jack lives and works out of Malta, Montana. Pending a successful proposal, Jack will become certified as a Technical Service Provider.

Greg Johnson, a Professional Land Surveyor registered in the state of Montana, will supervise all survey work. Greg has 25 years of experience in collecting field surveys for topographic map generation and property and easement boundary survey. Greg is familiar with the Montana state surveying statutes. DU has Global Positioning System (GPS) and Trimble Survey Units as well as all conventional types of survey instruments. Greg is a certified Technical Service Provider.

Randy Renner will serve as DU's key contact in regards to the biological components of the project. Randy's qualifications include a Bachelor of Science degree in Wildlife Biology and more than 14 years of wetlands program administration and implementation in Montana and

North Dakota. Randy has considerable experience working with farmers and ranchers to deliver wetland conservation projects in a professional manner. Randy is currently employed as a full-time Regional Biologist for DU and is certified as a Technical Service Provider.

Other DU staff from the GPRO that will play an important role in the delivery of this project include: Doug Lipetzky, Senior Regional Engineer, Pam Schell, Contract Compliance Specialist, and Dr. Jim Ringelman, Director of Conservation Programs for North Dakota, South Dakota and Montana. *DU designates Pam Schell to be a liaison to participate in the planning and management of the cooperative agreement.*

Name:	Douglas J. Lipetzky, P.E.	
Job Title:	Senior Regional Engineer – GPRO	
University Degrees:	B.S. Civil Engineering , North Dakota State University	1978
Certifications:		
Licenses:	Licensed Professional Engineer in ND, SD, NE, IA and MN	
Specialties:	Wetlands Engineering, Watershed Analysis, Structure Design	
	Construction Management, AutoCAD	
Professional Societies:	Association of State Dam Safety Officials - Individual Membership	
Other:	16 years professional experience in wetlands restoration design	
	and conservation activities	
Name:	Roger C. Smith	
Job Title:	Regional Engineer – GPRO	
University Degrees:	B.S. Civil Engineering , North Dakota State University	1980
Certifications:		
Licenses:	Licensed Professional Engineer in: ND, SD, MT, NE	
Specialties:	Water Resource Engineering, Wetlands Engineering, Structure Design	
	Hydrologic and Hydraulic analysis, AutoCAD.	
	Dam design and Construction	
Professional Societies:	Association of State Dam Safety Officials - Individual Membership	
Other:	19 years professional experience in wetlands restoration design	
	and conservation activities	
Name:	Brad Karel	
Job Title:	Construction Supervisor – GPRO	
University Degrees:	B.S. Minnesota State University-Moorhead Industrial Technology -	1983
	Construction Management	
Certifications:	ACI-Hot/Cold Weather Concrete, University of Minnesota - St. Paul	1990

	ACI - Repair of Concrete, University of Wisconsin – Madison	1996
Licenses:		
Specialties:	Wetland Engineering, Small Wetland Design & Restoration, Large Wetl Dev.	
	Const. Management, Surveying, Soils Investigation, Const. Materials Testing	
	Contract Administration, Contract Negotiations, Contract Compliance Admin.	
	Wetland/Water Management, Wetland Project Operations & Maintenance	
Professional Societies:		
Other:	Over 18 years professional experience in wetlands and waterfowl conservation.	
	Supervisor of 8 construction management employees at DU for 8 region state.	
Name:	Gregory L. Johnson	
Job Title:	Chief Surveyor – GPRO	
University Degrees:	Assoc. Degree Liberal Arts North Dakota State College of Science	1970
	Assoc. Degree Civil Engineering Tech. North Dakota State College of Science	1974
	National School of Conservation graduate	1971
Certifications:	Advanced GPS RTK training & user group , GPS Derived Heights	2000
	Basic Law of Water Boundaries	2001
	Operation and use of Trimble 4700, 4800,5700, & 5800 GPS Units	2003
	Public Land Surveys	2000
	Subdivision of Sections, Geographic Coordinate Data Base	2000
	Advanced Case Studies in the Public Lands	2000
	GPS Training in RTK	1996
	Many more specialized training certificates to mention	
Licenses:	Registered and Licensed Professional Land Surveyor in the following states:	
	North Dakota	1980
	South Dakota	1982
	Montana	1982
	Wyoming	1988
	Wisconsin	1996
	Colorado	1999
Specialties:	Boundary and network control surveys. Topographic mapping areas for construction,	
	wetland restorations, and riparian boundaries. Numerous accretion surveys	
	and water boundary surveys. Section breakdowns and subdivision surveys.	
	Water resource certificates and plats. Construction staking and management.	
	Certificates of Survey for ownership changes. Writing Easement legal	
	descriptions and recovery of legal description locations. Earthwork	
	calculations on embankments, and borrow areas. Mapped areas for flood	
	control hazard maps for government. All types of construction staking,	
	structures, and surveying.	

Professional Societies:	North Dakota Society of Professional Land Surveyors (Charter Member)
	South Dakota Society of Professional Land Surveyors (Charter Member)
	Past member of Montana Association of PLS and past member of
	American Congress of Surveying and Mapping.
Other:	Over 23 years of professional experience in all phases of land surveying,
	construction staking and management. Formerly the Chief Surveyor
	in Civil Engineering Department (1974-1980) for KBM Inc Consultants in Grand Forks,
	ND also formerly Chief Surveyor in charge of all survey and construction operations in
	western North Dakota & Montana for Interstate Engineering Inc Consultants in
	Sidney, Montana (1980-1989). Chief Surveyor Ducks Unlimited Inc. from
	1989 to present.
Name:	Debbie Knudson
Job Title:	Engineering Technician - GPRO
University Degrees:	
Certifications:	
Licenses:	
Specialties:	Proficient in AutoCAD, Autodesk Land Development Desktop and Civil Design
	Civil drafting and design, processing of gps data for topographic maps
Professional Societies:	Autodesk User Group International
	Twin Cities Autodesk User Group
Other:	20 plus years drafting experience, with 12 years of that on Autodesk products
	Coursework in drafting and interior design as well as various computer courses
Name:	James Streifel
Job Title:	Regional Engineer - GPRO
University Degrees:	BS North Dakota State University, Civil/Transportation Engineering 1982
Certifications:	
Licenses:	
Specialties:	Wetland Restoration Design and Construction
	Wetland Engineering and Watershed Analysis
	Water Wells and Irrigation Water Conveyance
Professional Societies:	
Other:	13 years experience design and construction of wetlands.
	10 years Consulting Engineering experience with all types of municipal
	design and construction.

Name:	Dale Schwindt	
Job Title:	Regional Engineer - GPRO	
University Degrees:	B.S. Civil Engineering - North Dakota State University	1996
Certifications:	American Concrete Institute	
	American Asphalt Institute	
Licenses:	Licensed Professional Engineer in ND, MN	2001
		2002
Specialties:	Wetland engineering, watershed analysis, wetland restoration design.	
	Transportation Engineering, road design, bridge design.	
Professional Societies:		
Other:	6 years of professional experience in county road and bridge design.	
	16 years of construction staking/surveying experience.	
Name:	Thomas Eckroth	
	Construction Manager / Land Surveyor - GPRO	
University Degrees:	Associate of Arts, Bismarck State College	1974
Certifications:	Registered Land Surveyor	
	AutoCad Certification, ND College of Science	1996
	GPS Surveying, McInnis & Trimble Users Group	1996
Licenses:	Licensed Professional Land Surveyor in : ND, SD	1991
Specialties:	Construction Management specific to wetlands restoration and enhancement	
	Quality control and compliance to engineering specifications	
	As-Built quantity calculations and pay requisitions.	
	Surveys for geodetic control, topographical, and construction staking	
Professional Societies:	ND Society of Professional Land Surveyors	
	Missouri River Chapter of Land Surveyors	
Other:	Over 25 years of surveying and engineering tech experience with consulting engineers and agencies. 15 years in this capacity with Ducks Unlimited Inc.	
Name:	Thomas S. Pope	
Job Title:	Engineering Technician - GPRO	
University Degrees:	Associate in Applied Science	1978

	ND State School of Science, Civil Engineering Technology	
Certifications:		
Licenses:		
Specialties:	Autocad, Construction Management, Topographical and Construction surveying	
Professional Societies:		
Other:		
Name:	Les D. Morgenstern	
Job Title:	Construction Manager - GPRO	
University Degrees:	A.A.S. North Dakota State College of Science, Civil Engineering Tech.	1979
	B.S. North Dakota State University, Geology	1989
Certifications:		
Licenses:		
Specialties:	Construction Management involving clay mineralogy	
	Environmental Site Assessments	
Professional Societies:		
Other:	14 years professional experience in Geotechnical and Environmental Consulting	
	Graduate Studies in Soil Science/Hydrogeology, NDSU	
	2 years Construction Mgmt./Eng. Program, NDSU	
Name:	Scott Samuelson	
Job Title:	Construction Manager - GPRO	
University Degrees:	B.S. Moorhead State University, Minnesota, Construction Management	2000
Certifications:		
Licenses:		
Specialties:	Construction manage, Auto Cad	
	Wetland Restoration Construction	
Professional Societies:		
Other:		
Name:	Mitch Messmer	
Job Title:	Engineering Technician - GPRO	
University Degrees:	B.S. North Dakota State Univeristy, Construction Engineering	1996

Certifications:		
Licenses:	Licensed Professional Engineer in: OK	2002
Specialties:	Wetland Engineering, Watershed Analysis	
	Construction Management, Surveying, AutoCAD	
	GPS	
Professional Societies:	The Order of the Engineer	
Other:	Over six years of professional experience in wetland construction and design	
Name:	Rick Warhurst	
Job Title:	Regional Biologist - GPRO	
University Degrees:	B.S. Wildlife Management - Kansas State Univ.	1971
	M.S. Zoology , Ohio State Univ.	1974
Certifications:		
Licenses:		
Specialties:	Wetland Habitat Management	
	Waterfowl Biology	
Professional Societies:	The Wildlife Society 1969 - Present	
Other:	Central Flyway Council and Technical Committee	
	Habitat Committee Chairman	
Name:	Randy Renner	
Job Title:	Regional Biologist - GPRO	
University Degrees:	B.S. Wildlife & Fisheries Management , Univ. of North Dakota	1987
Certifications:		
Licenses:		
Specialties:	Wetland Management, Waterfowl Management, Nesting Ecology, Grassland Ecology, Habitat Conservation	
Professional Societies:	The Wildlife Society	
	ND Chapter of TWS	
	Ducks Unlimited	
Other:	16 years experience in wetland and waterfowl conservation.	
Name:	Scott J. McLeod	
Job Title:	Regional Biologist - GPRO	
University Degrees:	B.S. South Dakota State University, Wildlife and Fisheries Managment	1990

	M.S. South Dakota State University, Waterfowl Ecology	1994
Certifications:		
Licenses:		
Specialties:	Waterfowl Ecology and Management	
	Wetland Ecology and Management	
	Wetland Plant Identification	
	Wetland Plant Ecology	
Professional Societies:	North Dakota Chapter of The Wildlife Society	
	South Dakota Chapter of The Wildlife Society	
Other:	Over 11 years experience in wetland and upland managment, restoration,	
	and enhancement and waterfowl conservation	
Name:	Jeffrey W. Nelson	
Job Title:	Director of Operations - GPRO	
University Degrees:	M.S. in Wildlife Ecology , Utah State University	1982
	B.S. in Wildlife Management , University of Minnesota	1978
Certifications:		
Licenses:		
Specialties:	Wetland restoration, waterfowl ecology, Farm Bill programs--	
	conservation title.	
Professional Societies:	The Wildlife Society	
Other:		
Name:	Stephen E. Adair	
Job Title:	Director of Conservation Programs - GPRO	
University Degrees:	Ph.D. in Wildlife Ecology , Utah State University	1998
	M.S. in Wildlife & Fisheries , Texas A & M University	1990
	B.A. in Biology , University of Texas	1984
Certifications:		
Licenses:		
Specialties:	Wetland ecology, waterfowl biology, wetland management,	
	and conservation planning.	
Professional Societies:	Ecological Society of America	

	Society of Wetland Scientists
Other:	
Name:	Pamela L. Schell
Job Title:	Contract Compliance Specialist/Project Coordinator - GPRO
University Degrees:	B.S. in Accounting and Business Administration , University of Mary 1994
Certifications:	Grants Management Certification through Management Concepts, Inc.
Licenses:	
Specialties:	State and federal compliance, accounting, audit, internal controls, agreement review and implementation, grants management, federal assistance law, and application of OMB circulars A-110, A-122, and FAR 31.2
Professional Societies:	
Other:	3 years state and federal audit; 3 years member of ND Institute of of Internal Auditors (IIA); 1 year President of Chapter of IIA.
Name:	Oddie Schlittenhardt
Job Title:	Project Coordinator - GPRO
University Degrees:	Secretarial Certificate - Bismarck State College 1965
Certifications:	
Licenses:	
Specialties:	
Professional Societies:	
Other:	
Name:	Vickie Loesch
Job Title:	Project Coordinator - GPRO
University Degrees:	B.S. in Business Administration, Winona State 1984 B.S. in Accounting, Winona State 2000
Certifications:	
Licenses:	
Specialties:	
Professional Societies:	

Other:	
Name:	James K. Ringelman
Job Title:	Director of Conservation MT, SD, ND- GPRO
University Degrees:	Ph.D. in Wildlife Ecology , University of Maine 1981
	M.S. in Wildlife Biology , South Dakota State University 1977
	B.A. in Biology , California State University 1975
Certifications:	
Licenses:	
Specialties:	Waterfowl ecology and management, population dynamics, wildlife research, waterfowl harvest management, wetlands ecology.
Professional Societies:	The Wildlife Society
Other:	
Name:	Matt Olson
Job Title:	Contract - Construction Manager - GPRO
University Degrees:	B.S. Construction Management - University of Wisconsin-Stout, Wisconsin 2003
Certifications:	
Licenses:	
Specialties:	Construction mangement, Auto Cad Wetland Restoration Construction
Professional Societies:	
Other:	
Name:	Jack Millar
Job Title:	Contract - Engineering Technician - GPRO
University Degrees:	
Certifications:	
Licenses:	
Specialties:	Construction mangement, Auto Cad Wetland Restoration Construction
Professional Societies:	

Other:	Retired BLM Engineering tech with a lifetime of experience in North Central Montana

ATTACHMENT B COST PROPOSAL

SECTION 5: COST PROPOSAL

5.0 PRIME CONTRACTOR COSTS

The offerors must provide the professional hourly rates for personnel who may work on this contract. Identify each professional rate for key project individuals and include staff who may not be identified in the staff qualification section of the proposal. Professional rates are for calendar year 2004. New negotiated rates can be established in one-year time increments. In addition to professional hourly rates, the offeror must identify costs of doing business that are typically invoiced to clients and identify all pass-through fees assigned to these costs. Sample Price Sheets to be used for proposal submission are found in Appendix C. Example costs that may be invoiced are professional time, photocopies, long distance telephone calls, computer time, administrative time for billing, postage, and any other typical costs that may be incurred. In cases where the exact cost cannot be determined (e.g., a long distance telephone call), state how you will bill the cost.

The State will pay the following travel rates:

Lodging – reasonable rates;

Meals – state rates as defined in Administrative Rule, currently \$5.00 morning, \$6.00 midday and \$12.00 evening meals;

Passenger car mileage – not to exceed \$0.345/mile;

No billing for air travel is allowed.

See Appendix C for costs price sheets for Ducks Unlimited, Inc. as Prime Contractor and subcontractor for revegetation work.

DU personnel costs are categorized as Hourly Rate Charges (HRCs). The HRC calculation includes actual compensation, fringe benefits, direct office costs, and direct conservation support costs from DU national headquarters. The HRC is calculated using the Direct Allocation Method under Office of Management and Budget Circulars. The HRC calculation is determined in accordance with the Federal Circulars by the DU controller, is reviewed and approved by the DU Chief Financial Officer and is audited by external financial auditors on an annual basis.

DU has a detailed accounting system that allows expenses to be identified and linked to individual projects. DU personnel also use a database to track time spent administering, designing, constructing, surveying, managing, monitoring of projects and travel to and from projects. The travel time is allocated to each project and if travel times include more than one project it is allocated based on the hours spent on each project.

5.1 SUBCONTRACTOR COSTS

Offerors must supply detailed cost lists for each subcontractor they propose to use following the format found in the Sample Price Sheets, Appendix C. Heavy equipment costs must be summarized for both operator and equipment rates. The rates quoted in the proposal should be rates that have been billed in the recent past. NOTE: heavy equipment rates may be negotiated on a project-by-project basis for the type of equipment, prevailing rates, and statutory requirements (e.g., Davis Bacon Act).

See Appendix C for subcontractor price lists from three subcontractors that have been contracted by DU for wetlands restoration work in Montana in the past. DU maintains a list of 170 contractors interested in doing wetland restoration work for DU.

APPENDIX A: STANDARD TERMS AND CONDITIONS

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Mont. Code Ann. § 18-4-141.)

AUTHORITY: The following bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors may be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://www.discoveringmontana.com/doa/gsd/css/Resources/ReciprocalPreference.asp>.

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://www.sos.state.mt.us>.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

UNAVAILABILITY OF FUNDING: The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313 (3).)

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

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